

DAY WORKER ISSUE

FREQUENTLY ASKED QUESTIONS

In August 2005, the Herndon Town Council approved a conditional use permit for Project Hope & Harmony to manage a temporary, regulated day worker site at the former Herndon Police Station located at 1481 Sterling Road. Project Hope & Harmony is a non-profit organization comprised of representatives from local social service organizations, churches, residents and the business community. The site is temporary, with the conditional use permit up for renewal in two years and valid only up to five years. Even though the day worker project has been widely publicized in the local and national media, it is important to ensure that residents have the facts regarding this complex and challenging issue. The following are frequently asked questions and answers:

Why should we have a regulated day worker site?

The phenomenon of day workers is a challenge facing numerous communities across the country, not just the Town of Herndon. For almost 10 years, Town officials attempted to respond to community concerns regarding the large number of men who gathered for day work in the area near the 7-Eleven at Alabama Drive and Elden Street. Residents complained about individuals rushing vehicles, causing excessive trash, intimidating patrons, and urinating and drinking in public. A regulated site allows workers and contractors to be managed in an orderly fashion, away from public sidewalks and streets at the busy intersection of Alabama and Elden.

Why was the old Herndon Police Station selected?

The availability of land in Herndon is one of the most critical barriers to solving the day worker problem. Town staff began working in 1998 to find an alternative to the 7-Eleven location. In 2001, the Community Relations Working Group – a coalition of more than 100 residents, business owners and day workers – was established to look at alternatives. A number of locations were explored (including churches, parks, the Neighborhood Resource Center and commercial property); none were available. In 2004, Project Hope & Harmony (PH&H) worked with a Realtor to explore possible site locations. That search included commercial space, which is extremely expensive in this area. At the time, the Herndon Police Station provided the only alternative for this temporary use.

What is the agreement for use of Town property?

Project Hope & Harmony entered into a licensing agreement with the Town and is paying the Town \$100.00 per month for use of the parking lot of the old police station site. Any site improvements, including the trailer, shelter, bike racks, etc. are the responsibility of Project Hope & Harmony.

Is the Town providing the \$175,000 in funding for the day labor site?

No. These funds are provided by Fairfax County to Project Hope & Harmony.

Why can't the problem be solved by arresting day workers for loitering or trespassing?

The U.S. Supreme Court has held that general anti-loitering ordinances are not enforceable. If there were a Town anti-loitering law, it would only be effective for loitering associated with criminal activity. The police department believes that a loitering law would be redundant because the Town already has the power to address criminal activity. The police can enforce trespassing prohibitions on private property at the request of the property owner.

Some of the day workers are illegal immigrants. Why can't the police or immigration authorities arrest them when they gather for work?

Immigration enforcement is the responsibility of federal authorities, not the Herndon Police. Town officials met with a representative of the Bureau of Immigration and Customs Enforcement (ICE) in March 2003. They were told that, because ICE has a limited number of agents in the region, it relies on leads and only goes after major players such as organizers of immigrant smuggling rings or gangs.

ICE can enter into agreements with local jurisdictions to train officers to enforce immigration law. However, such agreements have been initiated only with state governments in Florida and Alabama. In September 2003, the Virginia Attorney General's Office explained ICE's position on certifying local police departments for this purpose, citing factors such as the need to have adequate jail space to house detainees and the significant expense to ICE in training officers, as reasons why only large departments have been accepted into the program. **The Virginia State Police decided against proceeding with such an agreement.**

How does the Town stop workers from gathering at the old 7-Eleven site?

This is accomplished through an Anti-Solicitation Ordinance and our Zoning Ordinance, which prohibits day worker activity at any location other than the regulated site. According to constitutional law, an approved, regulated day worker site must be established in Town before an Anti-Solicitation Ordinance can be enacted.

The Town is working cooperatively with the business owners in and around the Alabama and Elden Street area to enforce the Anti-Solicitation Ordinance and trespassing laws.